

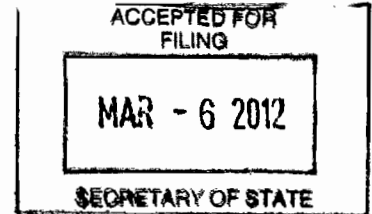
Rule-Making Cover Sheet

2012-63

MAPA-1

TO: Secretary of State
ATTN: Administrative Procedure Officer,
State House Station 101, Augusta, Maine 04333.

1. **Agency:** Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Maine Board of Pharmacy
2. **Agency umbrella and unit number:** 02-392
(2 digit umbrella # and 3 digit unit #)
3. **Title of rule:** Registration and Employment of Pharmacy Technicians
4. **Chapter number assigned to the rule:** 7
(must be 3 digits or less)
5. **Date(s)/method(s) of notice:** Newspaper advertisement by Secretary of State, 10-12-11; mailing to interested parties, 09-29-11; posting on OPOR's web site, 09-28-11
6. **Date(s)/place(s) of hearing(s):** 11-03-11, Department of Professional and Financial Regulation, 76 Northern Avenue, Gardiner, ME



- 7-A. **Type:** ☐ new rule ☒ partial amendment(s) of existing rule
☐ suspension of existing rule ☐ repeal of rule ☐ emergency rule
☐ repeal and replace: complete replacement of existing chapter, with former version simultaneously repealed.
8. **Name/phone of agency contact person:** Geraldine Betts, Board Administrator, (207) 624-8625
9. **If a major substantive rule under Title 5, c. 375, sub-CII-A, check one of the following**
☐ Provisional adoption (prior to Legislative review) ☐ Final adoption
☐ Emergency adoption of major-substantive rule

10. **Certification Statement:** I, Joseph Bruno, hereby certify that the attached is a true copy of the rule(s) described above and lawfully adopted by the Maine Board of Pharmacy on February 2, 2012.

Signature: _____

(original signature, personally signed by the head of agency)

Printed Name & Title: Joseph Bruno, Board President

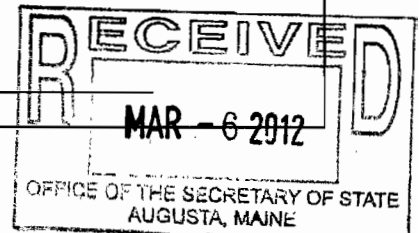
11. **Approved as to form and legality by the Attorney General on** 3/1/12

(date)

Signature: _____

(original signature, personally signed by an Assistant Attorney General)

Printed Name: CHRISTOPHER L. MANN



EFFECTIVE DATE: MAR 11 2012

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**392 MAINE BOARD OF PHARMACY****Chapter 7: REGISTRATION AND EMPLOYMENT OF PHARMACY TECHNICIANS**

Summary: This chapter sets forth the qualifications, permissible duties and supervision responsibilities of the pharmacist in charge with respect to registered pharmacy technicians.

1. Registration**1. Application**

The pharmacy technician shall complete the application supplied by the board and provide such other information as the board may require, along with the fee required by Chapter 10 of the rules of the Department of Professional and Financial Regulation, Office of Licensing and Registration, entitled "Establishment of License Fees." Applications will not be considered for approval until they are complete. Incomplete applications will be returned to the applicant.

2. Qualifications

The applicant shall supply verification of licensure or registration for all states in which the applicant has at any time been licensed or registered as a pharmacy technician. The board may refuse to register and may refuse to renew the registration of an applicant:

- A. Whose pharmacy technician license or registration has been denied, revoked, suspended or restricted in any jurisdiction for disciplinary reasons; or
- B. Who has been convicted of a crime involving controlled substances. This restriction is subject to consideration and waiver by the board upon presentation of satisfactory evidence that the conviction does not impair the ability of the person to conduct, with safety to the public, the duties of a pharmacy technician.

[NOTE: The effect of a criminal conviction on an applicant's eligibility for registration is governed generally by the Occupational License Disqualification on Basis of Criminal Record law, 5 M.R.S.A. §5301 *et seq.*]

An applicant who meets the qualifications of pharmacy technician (advanced) as defined in Chapter 1, Section 29 of the board's rules shall be registered as such by the board.

3. Applicability of Chapter to Pharmacy Students and Graduates

Pharmacy school students, and pharmacy school graduates who have not yet been licensed as professional pharmacists, must register as pharmacy technicians before assisting a pharmacist in the practice of pharmacy. This registration requirement extends to student interns and to pharmacy students or pharmacy graduates participating in a residency or fellowship program. Persons registered as pharmacy technicians pursuant to this subsection are subject to all requirements of this chapter and to all requirements of the board's rules relating to pharmacy technicians, except that student interns and pharmacy graduates participating in a residency or fellowship program are not subject to the limitation of duties contained in this chapter.

4. Term of Registration

The registration term is 1 year. Registrations may be renewed annually upon completion of a renewal application form supplied by the board and payment of the prescribed fee. No applicant may commence training or employment as a pharmacy technician until the registration has been issued by the board.

5. Notice of Change of Work Site, Contact Address or Enrollment Status

A pharmacy technician shall notify the board of a change in work site, cessation of employment as a pharmacy technician or a change of contact address via letter, fax or email within 30 days after the change. A pharmacy technician who is also a pharmacy student shall notify the board of any change in enrollment status other than graduation via letter, fax or email within 30 days after the change.

2. Training

A drug outlet that employs a pharmacy technician shall develop or deploy a training program for pharmacy technicians employed at that drug outlet. The drug outlet shall keep a copy of the training program on site at all times and shall furnish the training program to the board upon inspection or upon request. The pharmacist in charge or other Maine-licensed pharmacist designated by the retail drug outlet shall train each pharmacy technician in accordance with the drug outlet's training program or shall ensure that each pharmacy technician satisfactorily completes the training program offered by the drug outlet. The training program shall accommodate the needs of the individual technician being trained.

The training program shall include specific instruction relating to the limited scope of practice of a pharmacy technician and shall clearly delineate functions that may only be performed by a pharmacist and may not be performed by a pharmacy technician.

3. Administrative Responsibilities

1. Verification of Registration

The pharmacist in charge shall ensure that each pharmacy technician employed at the drug outlet for which the pharmacist in charge is responsible is registered with the board. A pharmacy technician shall carry the wallet-sized registration card issued by the board at all times the technician is on duty and shall produce the card upon request of the pharmacist in charge, a pharmacist on duty or an inspector of the board. No pharmacist in charge or pharmacist on duty shall permit a person who is not registered pursuant to the terms of this chapter to perform the duties of a pharmacy technician.

2. Display of Registration Certificate

The pharmacist in charge shall prominently display for public view the registration certificates of all pharmacy technicians employed at the drug outlet for which the pharmacist in charge is responsible. If the pharmacy technician works at multiple sites, the certificate shall be displayed at the technician's primary work site.

3. Notice of Employment and Non-Employment of Pharmacy Technicians

The pharmacist in charge shall notify the board via letter, fax or email within 14 days after the commencement or cessation of employment of any pharmacy technician at a retail drug outlet for which the pharmacist in charge is responsible:

4. Notice of Termination of Employment for Drug-Related Reason

The pharmacist in charge shall notify the board via letter, fax or email of the termination of employment of a pharmacy technician for any drug-related reason, including but not limited to adulteration, abuse, theft and diversion, and shall include in the notice the reason for the termination. Notice shall be provided within 7 days after the termination.

4. Supervision by Pharmacist in Charge

1. Generally

The pharmacist in charge shall supervise pharmacy technicians employed at the drug outlet for which the pharmacist in charge is responsible. In the absence of the pharmacist in charge, a pharmacist on duty shall be the supervisor.

2. Retail Drug Outlets

A pharmacy technician may engage in the practice of pharmacy at a retail drug outlet only under the direct supervision of a pharmacist as defined in Chapter 1, Section 14(A) of the board's rules. The pharmacist shall physically review each prescription drug order prepared by a pharmacy technician before the product is delivered to the patient or the authorized agent of the patient. The pharmacist is responsible for the

work of each pharmacy technician working under the direct supervision of the pharmacist.

3. Automated Pharmacy Systems At Remote Sites

~~A pharmacy technician may perform the duties authorized by Chapter 7, Section 5(2), Chapter 20 (Automated Pharmacy Systems) and Chapter 21 (Central Prescription Processing) of the board's rules only under the direct supervision of a pharmacist. The pharmacist is responsible for the work of each pharmacy technician working under the direct supervision of the pharmacist.~~[deleted]

5. Permissible Duties

1. Generally

The pharmacist in charge or the retail drug outlet shall determine the duties of pharmacy technicians based upon the needs of the drug outlet. At time of employment the pharmacist in charge shall provide the technician with a description of the tasks that the technician may perform.

Pharmacy technicians are limited to performing tasks in the preparation of prescription legend drugs and nonjudgmental support services. Permissible duties include the dispensing of drugs under the direct supervision of a pharmacist. Pharmacy technicians may also have access to a facsimile machine or computer used to receive original prescription drug orders via facsimile.

2. Automated Pharmacy Systems

~~Pursuant to Section 4(3) of this chapter and Chapter 20 of the board's rules, a pharmacy technician may remove and label drugs from an automated pharmacy system, stock an automated pharmacy system, and perform other functions related to automated pharmacy systems.~~[deleted]

3. Limitations

Except as set forth in Section 7 of this chapter, a pharmacy technician may not perform any of the following tasks:

- A. Accept an original prescription drug order by telephone;
- B. Clinically evaluate a patient profile relative to drugs that have or will be dispensed;
- C. Perform patient counseling;
- D. Make decisions that require the education and professional training of a pharmacist; or

E. Sign any federally-required controlled substance or inventory form.

4. Responsibility of Pharmacist

The pharmacist shall verify and confirm the correctness, exactness, accuracy and completeness of the acts, tasks and functions undertaken by the pharmacy technician to assist the pharmacist in the practice of pharmacy. The pharmacist in charge, or a pharmacist on duty, is responsible for all actions performed by the pharmacy technician.

6. Limitation on Deployment of Pharmacy Technicians

Except as set forth in this section or in Section 7(2) of this chapter, no drug outlet may permit more than 3 pharmacy technicians per working pharmacist to be actively involved in the prescription filling process at any time, provided that a pharmacy technician who is a pharmacy student or a pharmacy graduate need not be included in the calculation of this ratio.

A drug outlet may request the board to permit a greater ratio of pharmacy technicians to pharmacists only upon a clear and convincing demonstration that a pharmacist at the drug outlet can supervise more than 3 pharmacy technicians without compromising the health and safety of the patients served. Any waiver of the 3:1 ratio granted by the board pursuant to this paragraph may be limited in scope or duration or made subject to such conditions as the board deems necessary for the protection of the public.

7. Pharmacy Technician (Advanced)

1. Authorization for Performance of Additional Duties

A pharmacy technician (advanced) may perform the following duties in addition to those permitted by Section 5 of this chapter:

A. ~~Receive a~~ A pharmacy technician (advanced) may receive a transferred prescription for a noncontrolled drug pursuant to Chapter 19, Section 8(2) of the board's rules.

B. A pharmacy technician (advanced) on duty at an institutional pharmacy as described in Chapter 20, Subchapter 2, Section 1 of the board's rules may perform the duties relating to an automated pharmacy system described in Chapter 20, Subchapter 2, section 4(2) of the board's rules only under the direct supervision of a pharmacist as defined in Chapter 1, Section 14(A), (B) or (C) of the board's rules. The pharmacist in charge or pharmacist on duty at an automated pharmacy system is responsible for the work of each pharmacy technician (advanced) at a point of care location served by the automated pharmacy system.

2. Deployment of Additional Pharmacy Technicians

A drug outlet may permit a pharmacist to directly supervise up to 4 pharmacy technicians who are not pharmacy students or pharmacy graduates without need of the waiver otherwise required by Section 6 if at least 1 of the pharmacy technicians supervised by the pharmacist is a pharmacy technician (advanced).

A drug outlet may request the board to permit a greater ratio of pharmacy technicians to pharmacists if additional pharmacy technicians supervised by the pharmacist are pharmacy technicians (advanced) and the drug outlet makes a clear and convincing showing that a pharmacist at the drug outlet can supervise more than 4 pharmacy technicians without compromising the health and safety of the patients served. Any waiver of the 4:1 ratio granted by the board pursuant to this paragraph may be limited in scope or duration or made subject to such conditions as the board deems necessary for the protection of the public.

3. Verification of Status

The pharmacist in charge is responsible for verifying the registration status of each pharmacy technician (advanced) employed at the drug outlet for which the pharmacist in charge is responsible. No pharmacist in charge or pharmacist on duty shall:

- A. Permit a pharmacy technician who is not registered as a pharmacy technician (advanced) to perform technician duties that may only be performed by a pharmacy technician (advanced); or
- B. Supervise pharmacy technicians in a ratio permitted by Section 7(2) of this chapter where 1 or more of the pharmacy technicians, as the case may be, is not a pharmacy technician (advanced).

8. Exemption

Nursing personnel with access to hospital pharmacy medications at times when the pharmacy is not open need not register as pharmacy technicians.

9. Discipline

Pharmacy technicians are subject to the disciplinary provisions of 10 MRSA §8003(5-A), 32 M.R.S.A. §§~~1374~~-13742-A and 13743 and Chapters 30, 31 and 32 of the board's rules.

STATUTORY AUTHORITY: 32 M.R.S.A. §§13720, 13721(1)(H), 13723

EFFECTIVE DATE:

November 8, 2004 - filing 2004-509